

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Thamby et al. **CONFIRMATION. NO.:** 1755
SERIAL NO.: 10/577,890 **GROUP ART UNIT:** Not Yet Assigned
FILING DATE: April 28, 2006 **EXAMINER:** Not Yet Assigned
TITLE: Hybridised Pigment

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF STEVEN J. FRANK UNDER 37 C.F.R. § 1.47(a)

This declaration is made as to the facts that are relied upon to establish the diligent efforts made to secure the execution of a combined declaration and power of attorney by Mr. Subramaniam Balasubaramaniam Kathirgamathamby Thamby, a co-inventor of the claimed subject matter of the above-identified design application, United States Serial No. 10/577,890 ("the '890 application"). This declaration is made by Steven J. Frank, the person having first-hand knowledge of the facts recited herein.

I, Steven J. Frank, hereby declare as follows:

1. I am an attorney and a partner of Goodwin Procter LLP in Boston, Massachusetts, the law firm charged with responsibility for the '890 application.
2. Subramaniam Balasubaramaniam Kathirgamathamby Thamby and David John Calvert are named co-inventors of the subject matter of the '890 application, caused to be filed in the United States Patent and Trademark Office ("USPTO") on April 28, 2006, by Goodwin Procter LLP ("Goodwin Procter").
3. On December 21, 2006, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), which indicated the need to submit an

executed oath or declaration and supplemental fees, was mailed to Goodwin Procter by the USPTO.

4. I obtained a declaration and power of attorney executed by Mr. David John Calvert.
5. Mr. Mark Ballantine, the Quality Manager for the company to which the rights in this application have been assigned (namely Holliday Pigments, Ltd.), made several attempts to obtain an executed declaration and power of attorney from Mr. Thamby, as evidenced by the chronology and chain of mailings attached to the accompanying Petition as Exhibit A.
6. As of May 31, 2007, Mr. Thamby has not provided me with the executed documents.
7. This Declaration is filed to preserve the rights of the parties and to prevent irreparable damage that may result from abandonment of the '890 application.
8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

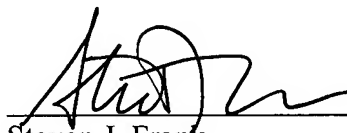
Date: June 1, 2007

Reg. No. 33,497

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Fax No.: (617) 523-1231

Customer No. 051414



Steven J. Frank

Goodwin Procter, LLP

Exchange Place

53 State Street

Boston, Massachusetts 02109

EXHIBIT A

The chronology of our attempts to contact Thamby is as follows.

Initial attempts were made to contact Thamby by telephone at the beginning of July 2006. I was able to contact Thamby's wife who informed me that Thamby was in London. I left a message asking for Thamby to telephone me when he returned. On getting no response, I sent an e-mail dated 11/7/06 (copy enclosed). I received no response to this. I made several attempts to contact again by telephone over the next three weeks. On three separate occasions I was able to get hold of Thamby's wife. On the first two of these occasions, when I asked if I could speak to Thamby, I was asked who I was. When I gave my name I was asked to wait. On both occasions, Thamby's wife came back to the phone to tell me Thamby was out. I was obviously suspicious that Thamby was reluctant to talk to me. On the third occasion that I got through to Thamby's wife, I was immediately told that Thamby was out. On this occasion I checked that the e-mail address I had for Thamby was correct, and this was confirmed. On all three of the occasions I spoke to Thamby's wife, I asked her to pass on a message that I needed to speak to Thamby urgently and asked that he contact me. Eventually, on 1/8/06 I sent another e-mail (copy enclosed). No further attempts were made to contact Thamby until 2007.

Further efforts to contact Thamby were not made until February 2007. From approximately the beginning of the month, several attempts were made to contact Thamby by telephone. There was no reply to any of the calls. In case there was a reluctance to answer calls that came from a Holliday Pigments number, I telephoned from home, and also from addresses in Birmingham and London. On no occasion was the telephone answered although the line was clearly connected. Eventually, I wrote to Thamby on 15/3/07 (copy enclosed). I have not received a response, nor has the letter been returned to me. I have sporadically made further attempts to contact Thamby by telephone, the most recent being on 13/5/07. I have still not had any call answered.

I am confident that for whatever reason, my failure to get a reply from Thamby as a result of my efforts to contact him in 2006 was due to some reluctance from Thamby to cooperate. It seems likely that subsequent to these early attempts, Thamby is no longer at the address I have been trying to contact him at. I have no idea as to where Thamby may be at present.

I hope that this helps in filing a petition. If you need any further information, please do not hesitate to contact me.

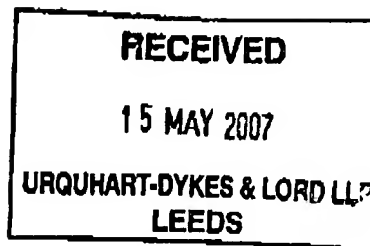
Yours sincerely

Mark Ballantine
Quality Manager



Mark
Ballantine/Technical/HPHU
LYCG
11/07/2006 08:52

To kathirg@aol.com
cc
bcc
Subject Patent: Hybrid Pigment



Hi Thamby

I hope all is well with you. I telephoned last week, but you were in London

I need your signature on a US Patent application in relation to the hybrid pigment work you carried out. Could you please let me know if it is OK to post the document to you for your signature. I would also be grateful if you could telephone me to discuss the patent. I need to ascertain whether the claims made in relation to the patent need to be modified.

You may or may not be aware that David Calvert has left Holliday Pigments, which is why I am trying to sort out the patent applications.

Kind regards

Mark Ballantine
Quality Manager
Holliday Pigments Ltd
+44(0)1482 388758 (phone) | +44(0)1482 223114 (fax)
[Click here to view our website](#)



Holliday Pigments



Mark
Ballantine/Technical/HPHU
LYCG

01/08/2006 08:52

To kathirg@aol.com
cc
bcc
Subject Fw: Patent: Hybrid Pigment

Thamby

I would be grateful if you could contact me, either by e-mail or by telephone, to discuss this.

Kind regards

Mark Ballantine
Quality Manager
Holliday Pigments Ltd
+44(0)1482 388758 (phone) | +44(0)1482 223114 (fax)
[Click here to view our website](#)



Holliday Pigments

— Forwarded by Mark Ballantine/Technical/HPHULYCG on 01/08/2006 08:51 —



Mark
Ballantine/Technical/HPHU
LYCG

11/07/2006 08:52

To kathirg@aol.com
cc
Subject Patent: Hybrid Pigment

Hi Thamby

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I need your signature on a US Patent application in relation to the hybrid pigment work you carried out. Could you please let me know if it is OK to post the document to you for your signature. I would also be grateful if you could telephone me to discuss the patent. I need to ascertain whether the claims made in relation to the patent need to be modified.

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Kind regards

Mark Ballantine
Quality Manager
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[Click here to view our website](#)



Holliday Pigments

Thamby
96/98 Heaton Road
Paddock
Huddersfield
West Yorkshire
HD1 4JJ

15 March 2007

Dear Thamby

Re USA Patent

It's been a long time since I last heard from you. I hope everything is going well.

I am trying to tie up some loose ends that have arisen with the departure of David Calvert and Malcolm Booth. One of the things that transpires is that we urgently need your signature on the document that I have enclosed, so that we can finalise a patent in the USA. I need to get the signed document returned to the solicitors before March 21st, so I really do need the document signed and returned immediately. I would be grateful if you could give it priority. Don't worry about the lack of signature from David; he has signed a duplicated version of the enclosed document.

I have been trying to contact you by telephone, but with no luck.

Please give me a call on 01482 388758 if you require any clarification of what this is about (or to catch up with all the latest gossip here at Hull).

Yours sincerely

Mark Ballantine
Quality Manager

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.47(a): Filing When an Inventor Refuses to Sign

The above-referenced application was filed under 35 U.S.C. 371, United States Serial No. 10/577,890 ("the '890 application"), in the United States Patent and Trademark Office ("USPTO") on April 28, 2006, and claims priority to International Application No. PCT/GB04/04506, filed under the Patent Cooperation Treaty on October 25, 2004, and United Kingdom Patent Application No. 0325475.2, filed in the United Kingdom Patent Office on October 31, 2003.

The application was filed in the name of Subramaniam Balasubramaniam Kathirgamathamby Thamby and David John Calvert. On December 21, 2006, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), was mailed by the USPTO and indicated the need to submit an executed oath or declaration and supplemental fees to the USPTO.

We have obtained a declaration and power of attorney form executed by Mr. Calvert. Mr. Mark Ballantine, the Quality Manager for the company to which the rights in this application have been assigned (namely Holliday Pigments, Ltd.), has made repeated attempts to obtain the executed declaration and power of attorney from Mr. Thamby, but as of May 31, 2007, Mr. Thamby has not returned the executed document.

As evidenced by the chronology and chain of mailings attached hereto as Exhibit A, prior to May 31, 2007, Mr. Ballantine has presented Mr. Thamby with a copy of the application as filed with the declaration and power of attorney. Mr. Ballantine has made repeated attempts, via mail, e-mail and telephonic communication, to obtain the executed declaration from Mr. Thamby. Despite these repeated efforts, Mr. Thamby has failed to return the executed declaration and power of attorney.

In view of the fact that Mr. Thamby is not cooperating, it is respectfully petitioned that the declaration and power of attorney executed by Mr. Calvert be accepted and that the '890 application be made by Mr. Calvert on his behalf and on the behalf of Mr. Thamby.

In support of this petition and in accordance with the requirements of 37 C.F.R. § 1.47(a), enclosed herewith are proofs of the pertinent facts by Declaration of Steven J. Frank under 37 C.F.R. § 1.47(a). As stated therein, attempts were made by Mr. Ballantine, on behalf of Mr. Frank, to obtain Mr. Thamby's signature on a combined declaration and power of attorney form. Mr. Thamby, however, has not returned the executed declaration.

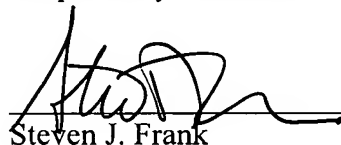
Mr. Thamby's last known address is as follows:

Mr. Thamby
96/98 Heaton Road
Paddock, Huddersfield
West Yorkshire, HD1 4JJ
United Kingdom

A check in the amount \$2,720.00 total is enclosed to pay for the fee associated with this petition, a petition for a 4-month extension of time, and the late oath or declaration surcharge. No additional fees are believed to be due; however, in the event that any additional fees are due, please charge such fees to Deposit Account No. 07-1700.

Granting of the instant petition is respectfully requested.

Respectfully submitted,



Steven J. Frank
Attorney for Applicants.
Goodwin Procter, LLP
Exchange Place
53 State Street
Boston, Massachusetts 02109

Date: June 1, 2007
Reg. No. 33,497

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